

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 179 of 1999

in

SPECIAL CIVIL APPLICATION No 8488 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and
MR.JUSTICE A.L.DAVE

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
1 to 5 NO

ISHWAR DASS AGARWAL

Versus

SARVODAYA LABOUR UNION

Appearance:

MR KM PATEL for Appellant
SINGHI & BUCH ASSO. for Respondent No. 1
MR KI SHAH for Respondent No. 2
MR LN MEDIPALLY for Respondent No. 3
MR JAYESH M PATEL for Respondent No. 4
MR RM DESAI for Respondent No. 5
MR KS JHAVERI for Respondent No. 6
NOTICE SERVED for Respondent No. 7

CORAM : MR.JUSTICE B.C.PATEL and

Date of decision: 19/03/99

ORAL JUDGEMENT

Against the order passed by the learned Judge in the aforesaid Special Civil Application, the appellant has preferred this appeal. The appellant was not a party to the Special Civil Application. However, in view of the order passed by the learned Single Judge, property at Madurai was to be disposed of for which Sale Committee was appointed, which invited tenders and in response to the advertisement, tender of the applicant was accepted by the Sale Committee for its acceptance. As the Court passed order for auction of the property at Madurai, the appellant has approached this Court.

2. It is undisputed before us that the Sale Committee recommended acceptance of the tender submitted by the appellant. The upset price of the property was fixed as Rs.33.83 lakhs. The appellant's offer of Rs.39.5 lakhs was of Madurai property and the other offer was of a small amount from a person residing at Ahmedabad. It is not disputed that the advertisement was published in the local dailies English and in local language where the property is situated namely; at Madurai. There was a wide publicity. Tenders were invited and considering the amount offered by the appellant, the Committee unanimously took the decision to accept the offer.

3. Recession in the industry is known to every one and what was the position before six months is not today. One has to take note of the day-to-day affairs particularly in business. Mr K M Patel, learned Advocate submitted that when the proceedings were not initiated, offer was made by other unit also. Mr K S Zaveri, learned Advocate appearing for the Unit submitted that in past i.e. before six months. M/s Gayatri Mills of Madurai forwarded its offer at Rs.35 lakhs. This statement is made after taking instructions from his client who is present in the Court. The Unit has to satisfy the demand of the labourers and if the proceedings are delayed without any assurance that the property will fetch more price, that would not be in the interest of either the Unit or the Labourers. The advertisement was given in Economic Times, Bombay, Chennai and Ahmedabad edition, local daily, Dina Malar in Madurai and Gujarat Samachar, Ahmedabad. Thus, after wide publicity, offer was received and was accepted by the Committee. It is not the case of any one that the

Committee has not acted even properly. The Committee, taking into consideration the facts and circumstances, recommended acceptance of the offer of the appellant. As we said earlier, there is no guarantee even by spending huge amount after advertisement more amount will be received. It will be nothing but a futile attempt. It is submitted that while passing the order, the learned single Judge directed that so far as the Earnest Money Deposit received in respect of the property at Madurai is concerned, the same will be kept by the Sales Committee. Thus, it appears from the order, the offer of the appellant is not out-rightly rejected by the Court and keeping the offer an order is passed for inviting offer by giving advertisement. This, in our view, is not permissible.

4. Considering the aforesaid aspects, we are of the view that the decision of the learned Single Judge in so far as non-acceptance of the recommendation by the Sale Committee in respect of Madurai property is concerned, it is required to be quashed and set aside and the recommendation made by the Sale Committee in respect of Madurai property should be accepted. The sale stands confirmed with regard to the subject matter. The appeal stands allowed. It goes without saying that the appellant shall deposit the amount with the Sale Committee within a period of 30 days from today as per the terms of the tender.

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msp